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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314				
			EXAMINER GARG, YOGESH C	
			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/931,254

**Applicant(s)**

NISHIKADO ET AL.

**Examiner**

Yogesh C Garg

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 and 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/8/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

**DETAILED ACTION**

***Response to Election/Restrictions***

Applicant's election with traverse of the fifth species of claims 3,4,6,7 and 12 with claims 1 and 2 being generic in the reply filed on February 15, 2005 is acknowledged. The traversal is on the ground(s) that (a) that the examiner did not give any reasons as why restriction between the various species identified in the Office action is required and (b) since all claims 2-19 depend directly or indirectly on claim 1 none of the dependent claims can be mutually exclusive species. This is not found persuasive because the examiner disagrees with this assertion and states that while there may be some overlap between the search areas required for the identified species the search is then divergent. The search for species including claims 8, 9, 10, 11, 13, 14, would involve searching for partial modification of the data (21) which constitutes another embodiment different from the embodiment representative of the claims 1-7 as disclosed in the applicant's disclosure, see page XXXXX, "... As another embodiment of the data processing instruction (222), an example a partial modification of the data (21) by instruction is described below. As a detail processing example of the modification, replacement or insertion is described but it is not limited thereto.....". Claims 1-7 are not directed to partial modification of data. Similarly, species including claims 13, 14, 15, 16, 17-18 and 19 require divergent search for data request containing area information, partial modification of data, data processing control information preparing or creating of said

server apparatus specifies distribution instruction information indicative of a list of server apparatuses to which the same service requests are transferred in a distributed manner, data processing control information preparing or creating of said server apparatus specifies communication quality indication information as said data processing control information of said extended data, a server management server connected to said data processing relay apparatus through a communication line to manage server authentication information for authenticating said server apparatuses, and said data processing control information preparing or creating means of said server apparatus specifies priority store instruction information of data as said data processing control information of said extended data, said memory unit includes a specific storage area previously assigned to said server apparatus respectively, which are not required for claims 1-7 and 12. The examiner agrees to include claim 5 with the fifth species because it is directed to the "charging instruction" and search for it would be part of the search for claims 4 and 6. . Thus it can be clearly seen that the other species have acquired a separate status in the art as shown by their recognized divergent subject matter, and the search required for them is not required for the species including claims 3-7 and 12, restriction for examination purposes as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL. Currently claims 1-7 and 12 are pending for examination. Claims 8-11 and 13-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a non-elected species, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The claims are further treated on merits as best understood by the examiner.

Claims 1-7 and 12 are directed to system/apparatus and as per MPEP 2114 APPARATUS CLAIMS MUST BE STRUCTURALLY DISTINGUISHABLE FROM THE PRIOR ART .....The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference. See also *In re Swinehart*, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); < *In re Dankly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device *is*, not what a device *does*." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). Therefore, system claims 1-7 and 12 will be further treated on merits accordingly.

***Claim Rejections - 35 USC § 102***

3 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-2 are rejected under 35 U.S.C. 102(a) as being anticipated by Qiong Luo et al.; “Active Query Caching for Database Web Servers”; 18 May, 2000 the article received with the applicant's IDS filed on November 8, 2004, hereinafter referred to Qiong Luo.

Regarding claims 1-2, Qiong Luo discloses a service system including server apparatuses, client apparatuses and data processing relay apparatuses for relaying data communication between said server apparatuses and said client apparatuses , wherein said server apparatus comprises a means responsive to a service request issued by said client apparatus to prepare or create data processing control information indicative of a processing method of data requested, an extended data producing means for producing extended data including said requested data and said data processing control information, and a means for transmitting said extended data as a response to said service request, said data processing relay apparatus comprises a means for receiving said service request to said server apparatus from said client apparatus to transfer said service request to said server apparatus, a data processing unit for processing said extended data received from said server apparatus in accordance with said data processing control information added to said extended data

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to produce its processed result data, and a means for transmitting said processed result data produced by said data processing unit to said client apparatus as response data to said data request received from said client apparatus, wherein said data processing relay apparatus comprises a memory unit for storing said extended data received from said server apparatus, and when said extended data corresponding to said service request received from said client apparatus is already stored in said memory unit, said data processing unit uses said extended data already stored in said memory unit as said extended data for a response to said service request (see at least abstract, figure 1, page 1, col.1, line 20-col.4, line 51. Query applet or Cache applets associated with a document in Qiong Luo corresponds to the claimed " prepared or created data processing control information indicative of a processing method of data requested, an extended data including said requested data and said data processing control information, and active proxy corresponds to the claimed data processing relay apparatus. The client, server, communication network, proxy and cache applet are all capable of performing all the functions as recited in claims 1 and 2.).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4.1. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Qiong Luo in view of Rigney et al.; "Remote Authentication Dial In User Service (Radius)"; June 2000; received with the applicant's IDS filed on November 8, 2004, hereinafter referred to Rigney and further in view of Barish et al.; "World Wide Web Caching: Trends and Techniques"; May 2000; received with the applicant's IDS filed on November 8, 2004, hereinafter referred to Barish.

Regarding claim 3, Qiong Luo teaches a service system including server, client and data processing relay apparatus [proxy server] with capabilities as analyzed in claims 1-2 above. Qiong Luo is silent about authentication process where the data processing relay apparatus [proxy server] further comprises an apparatus for containing user or group authentication information, receiving user or group authentication information from client, and then processing the authentication process using the contained information and then only in response to the authentication process preparing



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and sending extended data to the user in response to the service request. However, in the same field of distributing information to clients from web servers and proxy servers Rigney teaches the authentication process (see at least abstract, page 3, last paragraph-page 15, last paragraph). In view of Rigney, it would have been obvious to one of an ordinary skill in the art to have modified Qiong Luo to incorporate the authentication process between clients, proxy servers and web servers because it will allow only registered/authorized users to access the web server/proxy server services and to prevent the fraudulent use. Qiong Luo in view of Rigney does not teach that the users could be in the form of groups. However, Barish, in the same field of endeavor, teaches that users could be in the form of groups (see at least page 180, the heading, "*Adaptive Web Caching.....*" *Adaptive caching consists of multiple distributed caches.....In general, caches are organized into overlapping multicast groups which use voting and feedback techniques to estimate the usefulness of admitting or excluding members from that group.....If the virtual topologies are to be most flexible and have the highest chance of optimizing content access, administrative boundaries must be relaxed so that groups form naturally at proper points in the network*"). In view of Barish, it would have been obvious to one of an ordinary skill in the art to have modified Qiong Luo in view of Rigney to incorporate the feature of authenticating the user from a group because it helps to adapt and organize responses to those scenarios for which demand is very high, such as seeking information about the Olympics or any other sport event.

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4.2 Claims 4-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qiong Luo in view of Barish, in view of US Patent 6,314,451 to Landsman et al., hereinafter, referred to Landsman and further in view of Official Notice.

Regarding claims 4-6, their limitations are directed to the capabilities of the service system as discussed in claims 1-3 for using software in the data processing relay apparatus [ proxy server] to charge users as per instructions form the server with customer specific instructions for the data requested and transmitting those charges to the client . Qiong Luo does not explicitly teach about charging user for the requested content but it is a well-known fact that the online users are charged or required to pay for the specific data that they request, such as requesting stock reports online or specific information from specific web servers. Therefore, examiner takes an Official Notice of the notoriously well-known fact of charging the online users for the information requested by them to be downloaded to their client apparatuses. Qiong Luo teaches [see page 1, col.2 lines 17-page 2, col.3, line 20) that the servers provide cache applet , a piece of Java code, which is an executable code to control the functions being executed at the proxy server as per the instructions from the server. Qiong Luo does not disclose that this cache applet [a piece of java code] can also control the accounting function in charging the consumers. However, in the same field of endeavor, Landsman teaches the use of a cache applet in controlling the accounting function in charging the users (see at least col.13, lines 34-67 which discloses that the AdController, corresponds to cache applet in Qiong Luo; controls the accounting function of each user). In view of Landsman and Official Notice, it would have been

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obvious to one of an ordinary skill in the art to have modified Qiong Luo to incorporate the capabilities of the service system as discussed in claims 1-3 for using software in the data processing relay apparatus [ proxy server] to charge users as per instructions from the server with customer specific instructions for the data requested and transmitting those charges to the client because to enable the system to charge the customers and realize payments from them and also that the charging is done as per the instructions of the server which owns and provides the requested content so that nothing is left unknown to the server of the consumer's activities at the proxy server (see Landsman col.7, line 54-col.8, line 40).

Regarding claims 7 and 12, as best understood by the examiner, the limitations are directed to updating the cached data at the data processing relay apparatus [proxy server] by the data processing control information[ cache applet] and then the requested data can be searched in the updated data specific to a user. The limitations of searching data specific to a user or group of the user has been already discussed and analyzed in claim 3. Qiong Luo further does not disclose updating the cached data at the data processing relay apparatus [proxy server] by the data processing control information[ cache applet]. However, Landsman in the same field of endeavor, discloses updating the cached data at the data processing relay apparatus [proxy server] by the data processing control information[ cache applet]. (see at least col.11, line 33-col.13, line 25, ".....Thereafter, the Transition Sensor applet determines whether the Adcontroller applet has been downloaded to the browser disk cache or

whether an updated version of this particular applet resides on a distribution server.....". Note: The distribution server corresponds to the claimed sever apparatus, AdController applet corresponds to the claimed data processing control information and the browser disk cache corresponds to the claimed cache of the data processing relay apparatus [proxy server]. In view of Landsman, it would have been obvious to one of an ordinary skill in the art to have modified Qiong Luo to incorporate the feature of updating the cached data at the data processing relay apparatus [proxy server] by the data processing control information[ cache applet]. Because then the proxy server is totally relieved of any need to update the applet and the data to be provided to the clients.

### ***Conclusion***

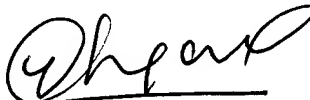
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) US Patent 5,991,810 to Shapiro et al (see at least abstract) and EP 1011244A2 to Cohen et al. (see at least abstract) teach a system and method for directing client requests to proxy caches from where the requested data already downloaded and stored in the proxy cache is transmitted to the clients. Cohen also teaches regulating the access to the proxy server based upon authentication and approval.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Yogesh C Garg  
Primary Examiner  
Art Unit 3625

YCG  
May 13, 2005